

REMARKS

Formal Matters

Claims 1-9 constitute all currently pending claims in the application.

The Examiner has not indicated that the drawings filed with the application on November 26, 2003 have been accepted. Applicant respectfully requests that the Examiner indicate such acceptance in the next PTO communication.

Claim Rejections Under 35 U.S.C. § 103

Claims 1 and 6 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Publication No. 2003/0035065 to Kim ("Kim") in view of U.S. Patent Publication No. 2003/0156128 to Ito ("Ito"). Applicant respectfully traverses this rejection for at least the following reasons.

Amended claim 1 recites the following features:

a luminance control means for comparing changes in adjacent lines of the image signal outputted from the scaler, changing a luminance of the image signal outputted from the scaler according to a result of the comparison, and changing a number of operations of the address driver based on the changed luminance of the image signal outputted from the scaler.

However, neither Kim nor Ito teaches or suggests the above-quoted features of claim 1.

With respect to Kim, the Examiner asserts that Kim teaches "a luminance control means (104) for comparing the high and low level . . . changes of the image signal outputted from the scaler [sic], the image signal outputted from the scaler according to a result of the comparison," citing Kim at ¶ [0029]. However, the Examiner fails to properly assert that the language of claim 1 as previously presented, or of claim 1 as currently amended, is taught or suggested by Kim,

because the Examiner's language does not correspond to either the previous or current version of claim 1.

For example, even if, arguendo, Kim were construed as teaching "a luminance control means (104) for comparing the high and low level," claim 1 instead requires "a luminance control means for comparing changes in adjacent lines of the image signal outputted from the scaler." (emphasis added.) In contrast with the present invention, the comparator of Kim "compares the level of the input signal detected by the level detector 103 with a reference voltage." (Kim at ¶ [0028] (emphasis added.)) Thus, the comparator of Kim clearly fails to teach or suggest the "luminance control means" of amended claim 1. Moreover, Kim fails to teach or suggest anything regarding the requirement of claim 1 regarding "comparing changes in adjacent lines."

With respect to Ito, the Examiner argues that the active matrix display of Ito inherently teaches "line by line changes, and changing the number of operations of the address driver," citing Ito at ¶ [0077]. Amended claim 1 requires "comparing changes in adjacent lines of the image signal outputted from the scaler," which does not appear to be taught or suggested by Ito. Amended claim 1 further requires "changing a number of operations of the address driver based on the changed luminance of the image signal outputted from the scaler." (emphasis added.) The cited portions of Ito fail to teach or suggest the above-quoted relationship, and fail to teach or suggest any means for comparing or scaler. Ito, therefore, does not teach or suggest the required "comparing changes in adjacent lines," or "changing a luminance . . . according to a result of the comparison," or that the "changing a number of operations of the address driver" is "based on the changed luminance of the image signal outputted from the scaler."

Furthermore, it is well-settled that for a claimed limitation to be inherent in a teaching, it must be shown that “the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” E.g., Ex parte Levy, 17 USPQ2d 1461, 1464 (U.S. PTO Bd. of Pat. App. & Interf. 1990) (emphasis in original). As noted in MPEP § 2112[IV] (8th ed. Rev. 5, Aug. 2006), “[i]n relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied art.” (emphasis modified) (citations omitted).

The Examiner has not provided any such basis or reasoning. Accordingly, Applicant respectfully requests that the Examiner provide the facts and technical reasoning to support any assertions of inherency. Moreover, if the Examiner intends to rely upon official notice, the Examiner is respectfully requested to provide references in support of the argument, as the MPEP clearly states that “[i]t would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known.” MPEP § 2144.03[A].

Thus, Kim and Ito, alone or in combination, fail to teach or suggest each and every element of amended claim 1. These references, therefore, fail to render claim 1 unpatentable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claim 1 and its dependent claims 2-5.

Claim 6 recites features similar to those of claim 1. Applicant respectfully submits that claim 6 is, therefore, also patentable at least for reasons analogous to those presented above with

respect to claim 1. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of independent claim 6 and its dependent claims 7-9.

Allowable Subject Matter

Claims 2-5 and 7-9 stand objected to by the Examiner as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully holds in abeyance the rewriting of these claims pending further prosecution of their respective base claims.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Application is being filed via the USPTO Electronic Filing System (EFS).

Applicant herewith petitions the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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